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Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE RODOLFO MORENO ALBESTRAIN,
and
PEDRO CERNA ARIAS,

Defendants.

CASE NO. 2:21-CR-188-DJC

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER

DATE: September 28, 2023

TIME: 9:00 a.m.

COURT: Hon. Daniel J. Calabretta

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendants, by and through their respective counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for status on September 28, 2023.

2. By this stipulation, defendants now move to continue the status conference until November 9, 2023, at 9:00 a.m., and to exclude time between September 25, 2023, and November 9, 2023, under Local Code T4.

3. The parties agree and stipulate, and request that the Court find the following:

a) The government has represented that the discovery associated with this case includes more than 650 pages of investigative reports and other documents, as well as numerous

1 audio and video recordings. All of this discovery has been either produced directly to counsel
2 and/or made available for inspection and copying.

3 b) Counsel for defendants desire additional time to review the discovery, conduct
4 factual investigation, evaluate the charges in this case and potential defenses and resolutions,
5 consult with their clients, and otherwise prepare for trial. In addition, counsel of record for
6 defendant Cerna Arias, Christina DiEdoardo, recently left the Matian Firm and new counsel at
7 the firm is taking over the representation of Cerna Arias. On September 25, 2023, new counsel
8 Jessica Walsh filed a substitution of counsel request. ECF No. 49. New counsel for Cerna Arias
9 requires additional time to review the case, consult with Cerna Arias, and prepare for trial.

10 c) Counsel for defendants believe that failure to grant the above-requested
11 continuance would deny them the reasonable time necessary for effective preparation, taking into
12 account the exercise of due diligence.

13 d) The government does not object to the continuance.

14 e) Based on the above-stated findings, the ends of justice served by continuing the
15 case as requested outweigh the interest of the public and the defendant in a trial within the
16 original date prescribed by the Speedy Trial Act.

17 f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
18 et seq., within which trial must commence, the time period of September 25, 2023 to November
19 9, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local
20 Code T4] because it results from a continuance granted by the Court at defendant's request on
21 the basis of the Court's finding that the ends of justice served by taking such action outweigh the
22 best interest of the public and the defendant in a speedy trial.

23 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
24 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
25 must commence.

26 IT IS SO STIPULATED.
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1 Dated: September 25, 2023

PHILLIP A. TALBERT
United States Attorney

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3 /s/ DAVID W. SPENCER
DAVID W. SPENCER
Assistant United States Attorney

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5 Dated: September 25, 2023

/s/ David D. Fischer
David D. Fischer
Counsel for Defendant
JOSE RODOLFO MORENO
ALBESTRAIN

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9 Dated: September 25, 2023

/s/ Jessica Walsh
Jessica Walsh
Counsel for Defendant
PEDRO CERNA ARIAS

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14 **FINDINGS AND ORDER**

15 IT IS SO FOUND AND ORDERED this 25th day of September, 2023.

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17 /s/ Daniel J. Calabretta
THE HONORABLE DANIEL J. CALABRETTA
UNITED STATES DISTRICT JUDGE